

REMARKS

This Response and Amendment is filed in reply to the Office action dated May 4, 2005. By this Response and Amendment, claims 1-10 and 17-20 are canceled without prejudice, claim 11 is amended, and new claims 21-34 are added, leaving claims 12-16 unchanged.

On page 2 of the Office Action, claims 11-16 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 6,550,223 issued to Xiong et al.

Claim 11 is hereby amended, and calls for:

A vacuum sealable storage bag assembly, comprising:
a plastic bag comprising
a first panel defining opposite side edges and opposite end edges;
a second panel defining opposite side edges and opposite end edges,
the opposite side edges of the second panel coupled to the
respective opposite side edges of the first panel, one of the
opposite ends of the second panel coupled to an adjacent end of
the first panel, wherein a bag opening is defined at another of
the opposite ends of the second panel; and
a pad of fluid-absorbing material positioned within the plastic bag adjacent the
bag opening, the pad of fluid-absorbing material located a distance from
the opposite end edges of the first and second panels defining the bag
opening, wherein the pad of fluid-absorbing material is also located
between a product-holding portion of the bag and the bag opening to
absorb fluid drawn toward the bag opening during vacuum sealing
operations, and wherein the pad of fluid-absorbing material is coupled to
at least one of the first and second panels.

(Amendment marks not shown).

In contrast, Xiong discloses a “package 1” having upper and lower panels 2, 4 sealed about peripheral edges, and a fusible duct 8 (compared by the Examiner to the strip of material in claim 12) having a filter (compared by the Examiner to the pad of fluid-absorbing material claimed in claim 11). Xiong fails to teach, describe, or suggest a vacuum sealable storage bag assembly in which a pad of fluid-absorbing material is positioned and coupled within a bag a distance from a mouth of the bag, wherein the pad is located between a product-holding portion

of the bag and the bag opening to absorb fluids drawn toward the bag opening during vacuum sealing operations as claimed. Also, in Xiong's device, any material that could fairly be considered "fluid absorbing" is located at the mouth of the bag. Indeed, the filter identified by the Examiner in the fusible duct 8 would likely extend through the mouth of the package 1, rather than being located within the bag a distance from the bag opening as claimed in amended claim 11.

Furthermore, Xiong fails to provide any motivation to change the disclosed packages 1, 20 in a manner similar to that claimed in amended claim 11, nor why such a change would be necessary or desirable. Any other location of the fusible duct 8 (and its filter, if any) would either place the fusible duct 8 within the package 1, 20 a distance from the mouth or outside of the mouth entirely, thereby rendering the fusible duct 8 inoperable for its intended use: to draw air through the mouth during vacuum sealing operations.

The above-referenced correspondence of elements between the vacuum sealable storage bag assembly of claim 11 and the components of the Xiong package was referred to in a brief comment made by the Examiner in the April 20, 2006 telephonic election of claims 11-16 by the undersigned Applicant's Representative. No other discussion of Xiong or the pending claims was made during the April 20, 2006 telephone conversation between the Examiner and the undersigned Applicant's Representative, and no agreement regarding the claims or prior art was reached.

In light of the above remarks, withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 11 is hereby respectfully requested. Claims 12-16 are each ultimately dependent upon amended claim 11, and are allowable based upon amended claim 11 and upon other features and elements claimed in claims 12-16 but not discussed herein. Withdrawal of the 35 U.S.C. §102(b) rejections of claims 12-16 is therefore also respectfully requested.

Claims 21-34 are hereby added to more fully claim that which the Applicant regards as the invention.

It is respectfully submitted that the claims as amended are in condition for allowance. The Applicant requests that the Examiner telephone the attorneys of record (414-225-8266) in the event a telephone discussion would be helpful in advancing the prosecution of the present application.

Respectfully submitted,

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